

## REMARKS

Applicant appreciates the consideration of the response to the previous Office Action. The applicant has thoroughly studied the Office Action of January 9, 2009 and has submitted this amendment in response to that Office Action. Reconsideration of this application, as amended, is earnestly requested.

Claims 1, 112, and 119 are amended. Claim 118 previously has been cancelled without prejudice, and claims 3, 5-45, 53-61, 63, 65-83, 87-90, 94-102, 104, 106-111, and 113-118 have been withdrawn from examination due to a restriction requirement. Claims 1,2,4,46-52, 62, 64, 84-86, 91-93, 103, 105, 112, and 119 remain pending in the application with claims 1, 112, and 119 being the independent claims.

Claims 1, 112, and 119 stand rejected under 35 U.S.C. §102(b) as being anticipated by Segen (5,140,889). Claims 1-2, 4, 46-47, and 112 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Williams (US 5,691,490) in view of Aitken (US 4,658,690), claims 48-52, 64, 84-86, 91-93, 103, and 105 as being unpatentable over Williams in view of Aitken and further in view of Tumura (US 5,585,588), and claims 84-86, 91-93, 103, and 105 as being unpatentable over Williams in view of Aitken and Tumura and further in view of Norton (US 5,994,633). These rejections are respectfully traversed.

### 102 Rejections

Independent claims 1, 112, 119 are amended to recite the limitation of "each musical module of said plurality of individual musical modules is exchangably mountable in each of a plurality of mounting locations of said mounting frame." No new matter is added with these amendments.

The Examiner has cited Segen in rejecting independent claims 1, 112, and 119. Sagen relates to a novel structure for supporting the drum such an electronic percussion synthesizer assembly. In particular, Sagen discusses

mounting drum head assemblies to a cross bar, wherein drum head assemblies are mounted either in the front or to the rear of the cross bar. The drum heads assemblies allow certain adjustments of the drum head angles.

Applicant respectfully notes that the drum head assemblies are formed in one of several configurations for mounting either in the right or left position in front of the bar or to the rear of the bar. See FIG. 1 and col. 3: 63 – 4: 18. Each configuration of the drum head assemblies is different allowing the drum head assembly to be mounted in a unique mounting location. Each drum head assembly is not exchangably mountable in any other location. For at least this reason, Sagen does not teach all the limitations of the independent claims and does not anticipate the independent claims.

As set forth in MPEP 2131, to anticipate a claim, the reference must teach every element of the claim. Since, as discussed above, every element of independent claims 1, 112, and 119 is not taught by Sagen, applicant submits that these claims are not anticipated by Sagen and are therefore patentable. Additionally, claims 2, 4, 46-52, 62, 64, 84-86, 91-93, 103, and 105 are patentable at least by virtue of dependence upon a patentable independent claim.

### 103 Rejections

The Examiner also rejects independent claims 1, 112, 119 under 103 as being unpatentable over Williams in view of Aitken. Williams relates to a stringed musical device such as a guitar, bass guitar, or other similar stringed instrument in combination with a conventional piano-type keyboard allowing a user to play the stringed instrument and the keyboard simultaneously. In particular, the positional relationship between the keyboard 30 and the strings of the stringed instrument 20 may be quickly and easily adjusted into a vast number of positions in order to optimize the comfort and feel of the b~81ument 10 for the user. See, FIG. 3 and col. 2: 51-59.

Aitken relates to electronic musical instruments, and describes a stringed instrument having keys for triggering musical notes (col. 10: 55-68).

Williams's keyboard is adjustably secured to the body of the musical device wherein the keyboard may be adjusted with respect to the strings. See, FIG. 3 and col. 4: 10-24, "They may be modified in order to allow greater flexibility in the positioning of the keyboard 30, and the strings 26 of the stringed instrument 30. The rotational angle between the bracket 50, and therefore the keyboard 30, and the strings 26 of the stringed instrument 20 is adjusted by rotating the bracket 50 around the sleeve 60." However, Williams does not teach that the keyboard and the strings may be exchangably mounted so that the keyboard may be mounted in the position of the strings and vice versa. Also, Aitken fails to teach that its keys and strings may be positionally interchanged.

Applicant can not identify any teaching in either Williams or Aitken or the combination of Williams and Aitken that teaches "each musical module of said plurality of individual musical modules is exchangably mountable in each of a plurality of mounting locations of said mounting frame." All Williams teaches is that the keyboard may be angled with respect to the strings, and even this teaching is absent in Aitken. For at least this reason, applicant believes that all the limitations of the independent claims are not taught by Williams and Aitken, and that the *prima facie* case for obviousness must fail.

As set forth in MPEP 2143, to show a *prima facie* case for obviousness, all the prior art references, either individually or combined, must teach all the claim limitations. None of Williams and Aitken teaches "each musical module of said plurality of individual musical modules is exchangably mountable in each of a plurality of mounting locations of said mounting frame." The secondary references of Tumura and Norton fail to cure this deficiency. Applicant submits that a *prima facie* case for obviousness has not been shown and that claims 1, 112 and 119 are patentable over the cited prior art. Additionally, claims 2, 4, 46-

52, 62, 64, 84-86, 91-93, 103, and 105 are patentable as well by virtue of dependence upon a patentable independent claim.

### **CONCLUSION**

In view of the above amendments and remarks, applicant respectfully requests reconsideration and withdrawal of the rejections, and an early indication of the allowance of the claims. Applicant believes the claims are in condition for allowance and respectfully solicit favorable action.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If any points remain at issue that the Examiner feels may be best resolved through a telephone interview, the Examiner is kindly invited to contact the undersigned by telephone at (909) 621-2059 or by email at cwschmoyer@yahoo.com.

Respectfully submitted,

Date: April 8, 2009

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